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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition No.310 of 2006

PETITIONER : Suo moto taken writ petition

Versus

RESPONDENTS

1. Union of India, through the Secretary, Ministry of Coal, Government of India, Shastri Bhawan, New Delhi
2. Coal India Limited, A Government Company and an instrumentality of the Central Government, 10 Netaji Subhash Road, Kolkata – 7 through its Chairman
3. Gujrat State Electricity Company Limited, A company incorporated under The India Companies Act and an instrumentality of the State government of Gujrat, Vadodara Gujrat, Through its Chairman
4. South Eastern Coal Fields Limited, having its registered office at Sipat Road, Bilaspur, 495 006, District Bilaspur, Through its Chairman and Managing Director.
5. M/s Aryan Coal Benefication Private Limited, A Company incorporated and Registered under the relevant provisions of the Companies Act 1956 having its registered office at C-102, lower ground floor, New Multan Nagar, New Delhi – 110 056

Present : Dr. Shailesh Ahuja, learned *Amicus Curiae.*
Thakur Vijay Singh, learned Asst. Solicitor General for Union of India / respondent No.1
Shri Prashant Mishra, learned Senior Advocate with Shri V.R. Tiwari, learned counsel for respondent No.3.

Shri P.S. Koshy and Shri N. Nah Roy, learned counsel for respondent 4.

Shri K.N. Bhatt and Shri Manindra Shrivastava, learned Sr. Advocates with Shri Amrito Das, learned counsel for respondent No.5.

Shri Manoj Paranjpe and Shri Sanjay K. Agrawal, learned counsel for the interveners.

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ORAL ORDER
(Passed on 11th December, 2006)

The following oral order of the Court was passed by the

S.R. Nayak, CJ.

In this writ petition, vide order dated 13/11/2006, the office was directed to delete the names of Shri Amit Singh Walia and Shri Manish Yadav from the array of parties in view of the binding judgments of the Hon'ble Supreme Court referred to therein, and directed that the writ petition be treated as a *suo moto* taken writ petition. We appointed Dr. Shailesh Ahuja, a learned Member of this Bar to assist the Court as *amicus curiae* and directed the office to list the writ petition on 30th November, 2006 for the purpose of examining whether the writ petition involves enforcing any public law obligation and whether the Court should under take adjudication of the issue brought before the Court by way of this writ petition in public interest. Since the Bench was not available on 30th November, 2006, the matter is listed today for the same purpose.

(2) We have heard Dr. Shailesh Ahuja, learned *Amicus Curiae,* Thakur Vijay Singh, learned Asst. Solicitor General for Union of India/respondent No.1,Shri Prashant Mishra, learned Senior Advocate with Shri V.R. Tiwari, learned counsel for respondent No.3.,Shri N. Nah Roy, learned counsel for respondent 4 and Shri K.N. Bhatt and Shri Manindra Shrivastava, learned Sr. Advocates with Shri Amrito Das, learned counsel for respondent No.5.

(3) Having heard learned counsel for the parties what transpires which is not disputed is the following:

(4) The coal rejects in terms of the contract entered into between the SECL and the third respondent herein belong to the third

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respondent. It is stated that though it is permissible for the third respondent to take out the coal rejects to Gujarat or anywhere chosen by them, but for their own convenience as a prudent business entity, they have an arrangement in writing with the 5th respondent-company, whereby and whereunder the rejects have been allowed to be retained by the 5th respondent for a price. If this is the admitted position, we are at a loss to understand how the retention of the coal rejects belonging to the third respondent by the 5th respondent under an agreement would in any way impair or affect the public interest. It is nobody's case that the coal rejects belong to Government of India or SECL and in fact none of the respondent public authorities have any objection to the aforementioned arrangement between the 3rd and 5th respondents. In that view of the matter, we are of the considered opinion that in this writ petition, originally filed by vested interests set up by a rival business group, enforcing any public law obligation would not arise. The writ petition is meritless and it is accordingly dismissed. The third respondent is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to learned *amicus curiae* within two weeks from today. It is needless to state that all the interim orders passed in this writ petition shall stand terminated with the dismissal of the writ petition.

Sd/-
V.K.Shrivastava
Judge

Sd/-
The Chief Justice

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